

1 ENGROSSED SENATE  
2 BILL NO. 563

By: Crain of the Senate

and

3 Derby of the House  
4

5  
6 [ use of roads, highways and rights-of-way -  
7 Department of Transportation and boards of county  
8 commissioners - repair of damages - codification -  
9 effective date ]

10 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

11 SECTION 1. NEW LAW A new section of law to be codified  
12 in the Oklahoma Statutes as Section 1450 of Title 69, unless there  
13 is created a duplication in numbering, reads as follows:

14 A. Any person or entity lawfully operating and in the course of  
15 doing business in this state may use the public roads and highways,  
16 including the rights-of-way and all easements pertaining thereto, as  
17 authorized in this section.

18 B. The use of the public roads and highways by any person or  
19 entity may be for the purpose of erecting poles and posts, attaching  
20 equipment, wires and fixtures thereto and laying pipes and conduits  
21 over or on the surface thereof. All poles, posts, fixtures,  
22 equipment, wires, pipes, and conduits shall be erected, placed,  
23 adjusted or laid and maintained only after obtaining the consent  
24 pursuant to rules promulgated by the Department of Transportation as

1 to the state highway system, and the boards of county commissioners  
2 of the various counties as to roads and highways under their  
3 jurisdiction. Provided, further, that the boards of county  
4 commissioners may grant to any person or entity the right to lay  
5 pipes and conduits under the surface of any road or highway under  
6 their jurisdiction, subject to such rules, regulations and  
7 conditions as shall be prescribed by the board of county  
8 commissioners. Nothing in this section shall be construed to limit  
9 any rights otherwise granted by law. All poles, posts, fixtures,  
10 equipment, wires, pipes, and conduits shall be erected, placed,  
11 adjusted, laid, constructed and maintained so as not to  
12 inconvenience or endanger the public in the use of its roads and  
13 highways and shall conform to all applicable provisions of the  
14 National Electrical Safety Code approved by the American National  
15 Standards Institute, in effect at the time of such erection,  
16 placement, adjustment or construction.

17 C. When the use of the public roads and highways by any person  
18 or entity as authorized by this section is deemed to be temporary, a  
19 grant of permission by the Department of Transportation or a board  
20 of county commissioners shall not require consent of or compensation  
21 to the abutting landowner, provided that such use serves the safety  
22 and interest of the public by reducing or eliminating another burden  
23 on the public road or highway. The use of the public roads and  
24 highways by any person or company pursuant to the provisions of this

1 section shall be deemed to be temporary when such use is not  
2 anticipated to exist and does not exist for longer than one (1) year  
3 from the date permission for such use is granted.

4 D. Any person or entity utilizing the public roads and highways  
5 pursuant to this section shall completely repair or replace any  
6 damage, injury or other change to public roads or highways or  
7 rights-of-way of this state or any county or municipality which  
8 would inconvenience or endanger the public which are caused by the  
9 erection, placement, adjustment, construction or maintenance of  
10 poles, posts, fixtures, equipment, wires, pipes, and conduits  
11 pursuant to this section.

12 E. The failure of such person or entity to construct or  
13 maintain its poles, wires, conduits, pipelines, and equipment upon  
14 or under such public highways in full compliance with the rules  
15 promulgated by the Department of Transportation or the board of  
16 county commissioners, including placement of its poles, wires,  
17 conduits, pipelines, and equipment, shall forfeit the right of the  
18 public citizen to use the public road or highways for such use, and  
19 the private citizen may thereupon be ousted from the use of the  
20 public road or highway.

21 SECTION 2. AMENDATORY 69 O.S. 2011, Section 1208, is  
22 amended to read as follows:

23 Section 1208. ~~(a)~~ A. The rights-of-way acquired by the  
24 Department shall be held inviolate for state highway and

1 departmental purposes, and no physical or functional encroachments  
2 or uses shall be permitted within such rights-of-way.

3 ~~(b)~~ B. It shall be unlawful for any person to construct,  
4 maintain or operate any gasoline pump, driveway canopy, building,  
5 sign, fence, post, or any thing or structure on or overhanging any  
6 right-of-way, or upon or overhanging any street occupied by a  
7 designated state or federal highway, and the construction or  
8 maintaining of any such thing or structure on or overhanging any  
9 federal or state highway shall constitute a public nuisance, which  
10 may be summarily abated by the Commission or its officers, agents,  
11 servants and employees in the manner provided in this article.

12 ~~(c)~~ C. This section shall not apply to the lawful use of such  
13 rights-of-way for the erection and operation of facilities of a  
14 public utility, or any person or entity authorized to use such  
15 rights-of-way pursuant to Section 1 of this act.

16 SECTION 3. This act shall become effective November 1, 2015.  
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